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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

New York, N.Y.

4 v.

S4 14 CR 130 (RPP)

S1 14 CR 254 (SAS)

5 RYAN CAMPBELL,

6 Defendant.

7 -----x

8 December 31, 2014
9 3:20 p.m.

10 Before:

11 HON. DEBRA C. FREEMAN,

12 Magistrate Judge

13
14 APPEARANCES

15 PREET BHARARA

United States Attorney for the
Southern District of New York

16 BY: NEGAR TEKEEI

17 Assistant United States Attorney

18 GARY G. BECKER

Attorney for Defendant

19 KEVIN G. ROE

20 Attorney for Defendant

21 Also Present: Darnell Edwards, U.S. Postal Inspector

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1 (Case called)

2 MS. TEKEEI: Good afternoon, your Honor. Negar Tekeei
3 and Postal Inspector Darnell Edwards for the government. Thank
4 you, your Honor.

5 THE COURT: Good afternoon.

6 MR. ROE: Good afternoon, your Honor. If the please
7 the Court, Kevin G. Roe appearing on behalf of Brian Campbell
8 in the matter of 14 CR 254.

9 MR. BECKER: And good afternoon, your Honor, I'm Gary
10 Becker. I'm appearing on behalf of Mr. Campbell on Indictment
11 number 14 CR 130, which is before Judge Patterson.

12 Mr. Campbell is seated in court here next to us.

13 THE COURT: All right. I note that both of these
14 indictments are superseders, one a 1st superseding and one a
15 4th superseding.

16 Has Mr. Campbell been presented on each of the charges
17 that he's now facing?

18 MS. TEKEEI: Yes, your Honor, he has.

19 THE COURT: This is an unusual proceeding, because I
20 gather that Mr. Campbell wishes to enter a plea on charges in
21 two separate cases, and I gather that they are not connected
22 cases, and they are pending before different district judges.

23 It is my understanding both judges have referred the
24 matter here. I'm going to try do this in one combined plea
25 proceeding. Hopefully this will go smoothly. It's going to be

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1 my attempt to separate things out, where necessary do things
2 together where I can. We'll hope for the best.

3 Let me start by explaining to Mr. Campbell that the
4 indictments in these two different cases each charge you with
5 felony crimes. And you have a right to a trial in these types
6 of charges before a United States District Judge, in this case
7 potentially before two different United States District Judges.

8 If you're found guilty, you'll be sentenced on any of
9 these particular charges before a United States District Judge.
10 And ordinarily a defendant who wishes to enter a plea to these
11 types of charges would do that before a District Judge as well.
12 That judge would then conduct the so-called plea allocution or
13 the question and answer session that must accompany the entry
14 of a plea.

15 However, with a defendant's consent a United States
16 Magistrate Judge, such as myself, also has the authority to
17 take a plea. If you were to consent to proceed before a
18 Magistrate Judge for the purpose of entering a plea, you would
19 receive all of the same procedural protections as you would
20 receive if you were proceeding before a District Judge. Do you
21 understand that?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Counsel, can you adjust the microphone,
24 please?

25 THE DEFENDANT: Yes, your Honor.

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1 THE COURT: Is it your wish to consent to proceed
2 before a Magistrate Judge for the purpose of entering a plea on
3 each of these two cases?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: I've been handed two separate consent
6 forms for the two cases. One is 14 Crim. 254 pending before
7 Judge Scheindlin, and the other actually a lower number, 14
8 Crim. 130 pending before Judge Patterson. The forms are both
9 captioned United States against Ryan Campbell. They're both
10 consent forms indicating consent to proceed before a United
11 States Magistrate Judge on a felony plea allocution.

12 Did you sign each of these two forms?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: All right. Before you signed them, did
15 you discuss them with counsel in each particular case?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Did your attorneys explain these forms to
18 you?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: Have any threats or promises of any kind
21 been made to cause you to agree to this proceeding today, this
22 procedure today?

23 THE DEFENDANT: No, your Honor.

24 THE COURT: I'm going to accept the consents with
25 respect to each of the two cases.

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1 Let me ask counsel a question before I proceed.
2 Ordinarily, just because of the numbering, it would be my
3 instinct to, if I'm dealing with the case separately, to deal
4 with the lower number case first. That's the Judge Patterson
5 case. I noticed in the plea agreement you do it the other way
6 around. Is there a reason for that or where it's logical?

7 MS. TEKEEI: Only because our charges were first in
8 line. He was superseded into Judge Patterson's case. So the
9 Judge Scheindlin case began first, and then later the defendant
10 was superseded into the Judge Patterson case. That was the
11 only sort of logic by it.

12 We're happy to proceed however your Honor wishes.

13 THE COURT: Okay.

14 Mr. Campbell, in order to take your plea I must ask
15 you some questions for which I need to place you under oath.
16 Would you please raise your right hand?

17 THE DEFENDANT: Yes, your Honor.

18 (Defendant sworn)

19 THE COURT: Please state your full name for the
20 record.

21 THE DEFENDANT: Ryan Campbell.

22 THE COURT: Are you a United States citizen?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: How old are you?

25 THE DEFENDANT: 36.

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1 THE COURT: How far did you go in school?

2 THE DEFENDANT: GED.

3 THE COURT: Are you now or have you recently been
4 under the care of a doctor for any reason?

5 THE DEFENDANT: No, your Honor.

6 THE COURT: How about a psychiatrist or psychologist?

7 THE DEFENDANT: No, your Honor.

8 THE COURT: Do you take any medication?

9 THE DEFENDANT: No.

10 THE COURT: Do you have any condition that affects
11 your ability to see or to hear?

12 THE DEFENDANT: No, your Honor.

13 THE COURT: Do you have any condition that affects
14 your abilities to think or to reason or to understand or make
15 decisions or judgments on your own behalf?

16 THE DEFENDANT: No, your Honor.

17 THE COURT: Have you ever been treated for drug
18 addiction or alcoholism?

19 THE DEFENDANT: No, your Honor.

20 THE COURT: As you appear before me today, are you
21 under the influence of any kind of drugs or alcohol or
22 medication?

23 THE DEFENDANT: No, your Honor.

24 THE COURT: Do you generally feel all right today?

25 THE DEFENDANT: Yeah.

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1 THE COURT: Do you have any trouble understanding the
2 questions I'm asking you?

3 THE DEFENDANT: No, your Honor.

4 THE COURT: Have you received a copy of the first
5 superseding information in the case number 14 Crim. 254?

6 THE DEFENDANT: The superseding indictment, yes, your
7 Honor.

8 THE COURT: The first superseding, yes?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: Have you had a chance to read it or do you
11 want me to take the time to read it to you?

12 THE DEFENDANT: No. I had a chance to read it with my
13 attorney, your Honor.

14 THE COURT: Do you understand what it says you did?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Have you had enough time to talk to your
17 attorney in that case about the charges and about how you wish
18 to plead?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: Are you satisfied with the representation
21 and advice given to you by counsel in connection with that
22 case?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: Are you ready to enter a plea in that
25 case?

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1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: All right. Let's start with that one
3 then.

4 I understand you're prepared to enter a plea to counts
5 two and three of that indictment, is that correct?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: All right. Bearing in mind that count two
8 of that indictment alleges that you violated Title 18 of the
9 United States Code, Section 1028(a), which makes it a crime to
10 commit what's referred to a here as aggravated identity theft,
11 how do you wish to plead to that charge, guilty or not guilty?

12 THE DEFENDANT: I plead guilty to that charge, your
13 Honor.

14 THE COURT: All right. And bearing in mind that count
15 three of that indictment charges that you violated Title 18 of
16 the United States Code, Section 1349, which makes it a crime to
17 conspire with others to commit bank fraud, how do you wish to
18 plead to that conspiracy charge, guilty or not guilty?

19 THE DEFENDANT: I plead guilty, your Honor. Guilty.

20 THE COURT: All right. Have you received a copy of
21 the fourth superseding indictment in the case numbered 14 Crim.
22 130, that's the case before Judge Patterson?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: Have you had a chance to read that
25 indictment or do you want me to take the time to read that one

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1 to you?

2 THE DEFENDANT: No. I read it and I discussed it with
3 my attorney, your Honor.

4 THE COURT: Do you understand what it says you did?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: You had enough time to talk to your
7 attorney about the charges in that indictment and how you wish
8 to plead?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: Are you satisfied with the representation
11 and advice given to you by your counsel in connection with that
12 case?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: Are you ready to enter a plea?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: I understand that you wish to enter a plea
17 to count one of that indictment, which charges a violation of
18 Title 18 of the United States Code, Section 1951, which makes
19 it a crime to commit robbery as that's defined in federal law,
20 specifically the law known as the Hobbs Act. How do you wish
21 to plead to that robbery count, guilty or not guilty?

22 THE DEFENDANT: I plead guilty, your Honor.

23 THE COURT: All right. Because you are proposing to
24 enter guilty pleas to these charges, I have to ask you some
25 additional questions to be sure that you understand the nature

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1 of the charges in each of these cases and the consequences of
2 your plea, and also to ensure that your plea is voluntary.
3 Again, I'm going to start with the case that's before Judge
4 Scheindlin.

5 I want you to understand that if convicted of the
6 second count in that indictment, that's the aggravated identity
7 theft count you could face, on that count alone, a prison
8 sentence of two years, a mandatory two years, which must run
9 consecutively to any other sentence, a maximum term of
10 supervised release of one year, a fine in the greatest amount
11 of \$250,000 or twice the gross pecuniary gain or monetary gain
12 derived from the offense or twice the gross pecuniary loss to
13 persons other than yourself resulting from the offense, and a
14 mandatory special assessment of \$100. Do you understand all of
15 that?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Do you understand that if convicted of
18 count three of that indictment, that's the conspiracy to commit
19 bank fraud, you could face on that charge alone a maximum
20 sentence of 30 years imprisonment, a maximum term of supervised
21 release of five years, a maximum fine of \$1 million, and a
22 mandatory assessment again of \$100. Do you understand all of
23 that?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: Do you understand that on that indictment

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1 in that case, on those two charges the total maximum term of
2 imprisonment that you could face would be 32 years, with a
3 mandatory minimum term of two years imprisonment?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: Do you also understand that, if convicted
6 of these crimes, the Court could also require you to pay any
7 restitution to the victims of the crimes?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: Turning to the second of the two cases,
10 the case before Judge Patterson. Do you understand that if
11 convicted of the Hobbs Act robbery that's stated in count one,
12 you could face on that count alone a maximum term of
13 imprisonment of 20 years, a maximum term of supervised release
14 of three years, a maximum fine of the greatest of \$250,000 or
15 twice the gross pecuniary gain that you derived from the
16 offense, or twice the gross pecuniary loss to persons other
17 than yourself resulting from the offense, as well as a
18 mandatory special assessment of \$100? Do you understand all of
19 that?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Do you also understand that, if convicted
22 of that crime, you could again face an order to pay restitution
23 to any victims of the crime?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: Do you also understand that if you are

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1 convicted, you could be required to forfeit to the government
2 all property, real and personal, that constitutes or derives
3 from the proceeds traceable to your criminal activity?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: Do you understand that if as part of your
6 sentence with respect to any of these counts you are placed on
7 a term of supervised release, and you then violate any
8 condition of that release, your supervised release may be
9 revoked and you may face an additional term of imprisonment?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: Do you understand that if that should
12 happen, you may not get credit for time served on supervised
13 release; in other words, the Court that sentenced you could
14 require you to serve in prison all or part of the term of
15 supervised release that's authorized by law for the offense in
16 question, without giving you credit for time you may have
17 already served on supervised release?

18 THE DEFENDANT: Yes, your Honor. I understand.

19 THE COURT: Do you understand that you have a right to
20 plead not guilty to these charges and the right to a speedy and
21 a public trial on the charges, and a jury trial if you wish?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Do you understand that if these cases
24 remain with two different judges, you would have a right to a
25 trial in each of the two cases?

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1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: Do you understand that if you were to go
3 to trial, the burden would be on the government to prove your
4 guilt by competent evidence beyond a reasonable doubt?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Do you understand that if you were to go
7 to trial, you would be presumed to be innocent, unless and
8 until the government did prove your guilt beyond a reasonable
9 doubt?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: Do you understand that if you were to go
12 to trial by jury, a jury composed of 12 people selected from
13 this district would have to agree unanimously that you were
14 guilty of the charged crimes?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Do you understand that at a trial you
17 would be entitled to be represented by an attorney at all
18 stages, and if you could not afford to hire one, an attorney
19 would be provided to you free of charge?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Do you understand that your right to be
22 represented by counsel and, if necessary, to have the Court
23 appoint counsel for you, applies not only to trial, but also to
24 every other stage of the proceedings against you?

25 THE DEFENDANT: Yes, your Honor.

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1 THE COURT: Do you understand that at a trial you
2 would be entitled to, through your attorney, to cross-examine
3 any witnesses called by the government to testify against you?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: Do you understand that at a trial you
6 would be entitled to testify and to present evidence on your
7 own behalf?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: Do you understand that this also means
10 that you would be entitled to call witnesses to testify on your
11 behalf?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: Do you also understand that you would be
14 entitled to have the Court issue subpoenas to compel witnesses
15 to appear to testify at a trial?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Do you understand that at a trial you
18 would not be required to incriminate yourself; that is, you
19 would not be required to testify against yourself?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Do you understand that this means that at
22 a trial you would have the right to testify if you wanted to do
23 so, but no one could force you to testify if you did not want
24 to do so, and, furthermore, no inference or suggestion of guilt
25 could be drawn if you chose not to testify?

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1 THE DEFENDANT: Yes, your Honor, I understand.

2 THE COURT: Do you understand that if you go forward
3 with your guilty pleas in both of these cases, you will be
4 giving up all of these types of protections as I've just
5 described in both of the cases, including your very right to a
6 trial, and the only remaining step would be the imposition of
7 sentence by whichever District Judge is presiding at your
8 sentencing?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: Do you understand that if any of the
11 answers you give me today prove to be untruthful, you could
12 face a separate prosecution for perjury or for making a false
13 statement to the Court?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: Do you understand that if your guilty plea
16 is accepted and you are adjudged guilty, that adjudication may
17 deprive you of valuable civil rights such as the right to vote,
18 the right to hold public office or to serve on a jury or to
19 possess a firearm?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Do you still wish to plead guilty in both
22 of these cases?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: Do you understand that the decision as to
25 the appropriate sentencing in your -- I'm sorry -- the

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1 appropriate sentence in each of these cases will be entirely up
2 to the sentencing judge?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: Do you understand that at present one of
5 these cases is pending before Judge Patterson, and that he will
6 decide your sentence in that case, and the other is presently
7 pending before Judge Scheindlin who will decide your sentence
8 in the other case, unless the two cases end up consolidated, in
9 which case there may be a single judge who decides your
10 sentence in connection with all the charges. Do you understand
11 all of that?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: Do you understand that whatever judge it
14 is who decides your sentence will have discretion in making
15 that determination, and that that discretion will be limited
16 only by what the law requires for the particular charged
17 offense?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Do you understand that in determining your
20 sentence, the Court will have to consider the so-called
21 sentencing guidelines, even though it will not be required to
22 sentence you within the guidelines range?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: Have you had a chance with each of your
25 two attorneys to talk about how the guidelines may be

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1 calculated in the two cases where you're facing charges?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Do you understand that the Court will not
4 be able to determine the guidelines for either of the cases,
5 any of the charges, until after a presentence report has been
6 completed with respect to those charges, and both you and the
7 government have had the chance to challenge the facts reported
8 there by the probation officer?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: Do you understand that even after the
11 guidelines calculation has been made for it, the sentencing
12 judge will have the authority to impose a sentence that is
13 either less severe or more severe than the sentence recommended
14 by the guidelines, as long as it's within the statutory maximum
15 of the crime?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Do you understand that in addition to
18 considering the sentencing guidelines, the Court will also have
19 to consider possible departures from the guidelines, and also a
20 number of different factors in deciding on the appropriate
21 sentence to impose in your case?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Now, in each of your two cases, have you
24 and the attorney who is representing you in each case, had a
25 chance to talk about the various factors that are listed in the

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1 relevant provision of the law, that's Title 18 of the United
2 States Code, Section 3553(a) and about how those different
3 factors may apply to you in your particular circumstances?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: Do you understand that those factors
6 include, but are not limited to, the actual conduct in which
7 you engaged, the victim of the offense, the role you played in
8 the offense, whether or not you accepted responsibility for
9 your acts, whether you have any criminal history, and whether
10 you have engaged in any obstruction of justice?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: Do you understand that even if you end up
13 shocked and disappointed by your sentence with respect to any
14 of these charges, you will still be bound by your guilty plea?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Do you understand that under some
17 circumstances you will -- you or the government may have the
18 right to appeal any sentence that is imposed?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: Do you understand that there is no parole
21 in the federal system, and that if you are sentenced to prison
22 you will not be released on parole?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: Understanding everything I've just told
25 you, do you still wish to plead guilty?

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1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: I have a copy of a plea agreement between
3 you and the government. It's a letter dated December 24, 2014,
4 from the Office of the United States Attorney to your counsel.
5 It's addressed to counsel in both of the two cases. Did you
6 sign this plea agreement?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: Before you signed it, did you discuss it
9 with each of your two attorneys?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: Did they explain to you all its terms and
12 conditions?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: This plea agreement, which I have
15 reviewed, contains three separate guidelines calculations; one
16 with respect to the case currently pending before Judge
17 Scheindlin, one with respect to the case currently pending
18 before Judge Patterson, and another that may apply if the cases
19 end up consolidated for sentencing. Do you understand that?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Do you understand that with respect to the
22 case before Judge Scheindlin, the agreement states the
23 conclusion that if the guidelines were applied, you could
24 expect a sentence in that case, meaning with respect to counts
25 two and three, to be from 70 to 87 months, but because of the

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1 two year sentence that must run consecutively to any other
2 sentence, that would become 94 to 111 months. Do you
3 understand that?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: Do you understand that Judge Scheindlin is
6 not bound by the guidelines analysis in the plea agreement?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: Do you understand she will be do her own
9 analysis, which may result in a guidelines range that is
10 different than the one stated in the agreement?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: Do you understand that even if she agrees
13 with that analysis, and if you are sentenced separately on that
14 case, she would still be free to impose a prison term of less
15 than 94 or more than 111 months; do you understand that as
16 well?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: Do you understand that with respect to
19 Judge Scheindlin's, the case before Judge Scheindlin, you are
20 agreeing that no so-called departure from the guidelines range
21 of 94 to 111 months would be warranted, and you will not seek
22 one, although you are still reserving your right to seek a
23 sentence outside of that range based on those factors set out
24 in Section 3553(a)?

25 THE DEFENDANT: Yes, your Honor.

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1 THE COURT: Do you understand with respect to that
2 case standing alone, if you are sentenced separately in that
3 case, you are agreeing that as long as you are sentenced to no
4 more than 111 months, you would be giving up your right to
5 challenge that sentence both by appeal to the Court of Appeals,
6 and also by any further application to this Court?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: Do you understand with respect to the case
9 currently pending before Judge Patterson, the plea agreement
10 states the conclusion that if the guidelines were applied in
11 that case, you could expect a range for a prison sentence to be
12 from 63 to 78 months?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: Do you understand if you are sentenced
15 separately by Judge Patterson on that case, he will do his own
16 analysis, which may result in a different guidelines range than
17 the one I just stated?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Do you understand that regardless, he
20 would be free to sentence you to less than 63 or more than 78
21 months?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Do you understand that you are agreeing
24 under this plea agreement not to seek departure from that
25 stated guidelines range, although again you're reserving your

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1 right to seek a sentence outside of that range based on the
2 various factors that may apply to your particular case?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: Do you understand you are agreeing, if you
5 are sentenced separately on that case, you will not seek to
6 appeal your sentence as long as it is not more than 78 months,
7 that means either to the Court of Appeals or by making any
8 other applications to this Court?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: You also understand that the plea
11 agreement states that if these cases were consolidated for
12 sentencing purposes, the guidelines range then together on all
13 of the three counts at issue would be from 84 to 105 months,
14 except again because of the two year mandatory sentence that
15 must run consecutive to any other sentence that I spoke of
16 earlier, that would become a guidelines range of 108 to 129
17 months; do you understand that?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Do you understand that if you are
20 sentenced in a consolidated proceeding, whichever judge
21 presides would be free to sentence you to less than 108 or more
22 than 129 months?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: And do you understand that if that is what
25 happens, if you are sentenced in a consolidated proceeding, you

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1 would be giving up your right to challenge your sentence both
2 by appeal to the Court of Appeals, or by any further
3 application to this Court, as long as your sentence is no more
4 than 129 months?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Do you understand that the government --
7 let me rephrase that.

8 Do you understand that if these cases were
9 consolidated for sentencing purposes, the Government's taking
10 no position as to whether the sentences in each case should run
11 concurrently or consecutively?

12 Is that not correct, counsel?

13 MR. BECKER: Most respectfully, your Honor, that is in
14 the event they are not consolidated, the government will take
15 no position.

16 THE COURT: Oh, I'm sorry. I misspoke. That's what I
17 meant to say. Let me say that again.

18 Do you understand that if the cases are not
19 consolidated for sentencing, the government is currently taking
20 no position as to the sentences in each case separately, should
21 run concurrently or consecutively?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Thank you, counsel.

24 Do you understand that under the terms of the plea
25 agreement, you are agreeing, in connection with the case

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1 currently before Judge Scheindlin, to make restitution in a set
2 amount? That amount being -- counsel, what page of the
3 agreement was that on?

4 MS. TEKEEI: At the bottom of page two, your Honor.
5 And just for clarification to that amount, including but not
6 limited to that amount. And it's \$523,751.45.

7 THE COURT: I'm sorry. That's not what I was talking
8 about.

9 MS. TEKEEI: I'm apologize.

10 THE COURT: I was talking about the restitution for
11 the other case, Judge Scheindlin case. Wasn't there an
12 agreement?

13 MS. TEKEEI: It is, your Honor. I apologize. I was
14 looking at the forfeiture section. It is on page three, the
15 third paragraph.

16 THE COURT: That's the same amount, correct?

17 MS. TEKEEI: It is the same amount, your Honor.

18 THE COURT: Yes. Just so I understand, there is an
19 agreement to enter a consent order of restitution in that sum
20 of \$523,751.45 in the case pending before Judge Scheindlin, and
21 an agreement to forfeit the same amount of money in a consent
22 forfeiture order in the other case before Judge Patterson?

23 MR. ROE: Judge, I think the forfeiture's intended to
24 represent any available assets that would go towards the
25 restitution figure. I don't believe there is a double counting

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1 of the same figure twice.

2 THE COURT: That's why I'm asking. Because the way
3 that it reads, the bottom of page two if you take a look it
4 says, "Defendant hereby admits the forfeiture allegation with
5 respect to count three of the S1 14 Crim. 254 indictment and
6 agrees to forfeit to the United States," et cetera, et cetera,
7 an amount including but not limited to this sum of money. And
8 it says there two sentences later on the top of page three,
9 "Defendant consents to the entry of a consent order of
10 forfeiture."

11 So was that consent order of forfeiture supposed to
12 have that amount in it? Because I also see that amount as
13 the -- oh, that's on the 254. I'm sorry. That's on the 254
14 indictment, as is the restitution.

15 But there is no set amount of restitution on the 130
16 indictment?

17 MR. BECKER: That is correct, your Honor.

18 MS. TEKEEI: That is correct, your Honor.

19 THE COURT: All right. I got confused briefly by the
20 headings in your plea agreement.

21 MR. ROE: But I think the Court noting, and the
22 government to acknowledge that the amount sought, whether by
23 restitution or forfeiture, is a single figure of the
24 \$523,751.45.

25 Is that correct, counsel?

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1 MS. TEKEEI: The plea agreement --

2 THE COURT: Government's not seeking it twice?

3 MS. TEKEEI: We're not seeking it twice, your Honor.

4 MR. ROE: That's simply the question. Thank you,

5 Judge.

6 THE COURT: Okay. All right. So let me see if I can
7 get this straight for the purposes of the allocution.

8 Do you understand, in connection with the case that is
9 pending before Judge Scheindlin, that's the 14 Crim. 254 case,
10 that you are agreeing to make restitution in the amount that
11 was just stated, \$523,751.45, specifically to TD Bank?

12 THE DEFENDANT: Yes.

13 THE COURT: Do you understand you are agreeing to a
14 consent order of restitution in that amount?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Do you understand in that case under the
17 plea agreement you are admitting the forfeiture allegation
18 contained in the indictment with respect to count three, and
19 you are agreeing to forfeit to the United States any and all
20 property constituting or derived from proceeds traceable to
21 that offense, which would include but not be limited to the
22 amount that is subject to forfeiture -- I'm sorry -- the
23 restitution order, although the government has confirmed it is
24 not looking for you to pay that amount twice. Do you
25 understand that?

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1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: Do you also understand that under the
3 terms of this plea agreement you are admitting the forfeiture
4 allegation with respect to count one of the other indictment,
5 that's the S4 14 Crim. 130 indictment, and you are also
6 agreeing to forfeit to the government any and all property
7 constituting or derived from proceeds traceable to the
8 commission of that crime?

9 THE DEFENDANT: Yes, your Honor.

10 MS. TEKEEI: Your Honor, may I, just one point of
11 clarification?

12 The issue of the government seeking it twice, I think
13 I misunderstood that earlier.

14 I just want to be 100 percent clear. In terms of the
15 restitution amount and the forfeiture amount as to the case in
16 front of Judge Scheindlin. The paragraph at the top of page
17 three states That "It's further understood that any forfeiture
18 of the defendant's assets shall not be treated as satisfaction
19 of any fine, restitution, cost of imprisonment or any other
20 penalty the Court may impose upon him in addition to
21 forfeiture." So I just want to be clear about that.

22 THE COURT: Are you looking to recover that amount
23 twice, once as restitution paid to the bank and once as
24 forfeiture to the Government?

25 MS. TEKEEI: Your Honor, there is a difference between

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1 what is forfeitable and there is a difference between
2 restitution. Now, I can't say, standing here today -- you
3 know, the agreement is what it is. This is our standard
4 language and I don't want to vary from that in any way, shape
5 or form.

6 THE COURT: Let's go off the record for a second.

7 (Off-the-record discussion)

8 THE COURT: Can we go back on the record?

9 MR. ROE: Yes, Judge.

10 THE COURT: All right. For the record, we have had a
11 rather long interlude where I discussed a bit with counsel this
12 issue of a consent order of forfeiture and a consent order of
13 restitution in the same case with the same sum, and where
14 counsel have conferred with one another and with Mr. Campbell.

15 Mr. Campbell, are you ready to proceed at this point?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Okay. Let me just see if I can clarify.
18 I can't speak for Judge Scheindlin, nor for Judge Patterson
19 should the matter end up consolidated before him as to whether
20 consent orders would be entered by the Court in the form
21 suggested here or how the Court would look at it.

22 Certainly if there is an agreed amount of restitution
23 to a victim of a crime, I'm sure there would be an assumption
24 that that amount should be paid. It may or may not be the case
25 that the Court would look for further forfeiture beyond that.

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1 It seems to me somewhat unlikely that the Court would look for
2 the same amount of money to be paid twice. But the way in
3 which the plea agreement is written, it suggests two separate
4 consent orders with that amount.

5 Do you understand, Mr. Campbell, that forfeiture and
6 restitution legally are two separate concepts; that restitution
7 involves making the victim of a crime whole, and forfeiture
8 involves your forfeiting to the government proceeds traceable
9 to your crime?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: Have you had a chance to go over this
12 language in the plea agreement with Mr. Roe, who is
13 representing you in the case where this sum of money has been
14 discussed?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Are you prepared to proceed with your
17 plea?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Do you understand, in any event, that you
20 are agreeing in both of the two cases to forfeit to the
21 government any proceeds of your criminal activity?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Do you also understand, as I said, you may
24 face an order that you pay restitution in full to any victims
25 of your crimes?

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1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: Moving onto other provisions of this plea
3 agreement then.

4 Do you understand that even if it turns out that the
5 government has illegally withheld from your counsel in either
6 case material that might assist you in defending yourself at
7 trial, you're giving up your right to complain about that?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: Are there any other particular provisions
10 of this plea agreement that any counsel here would like me to
11 go over with Mr. Campbell to make sure he understands?

12 MR. BECKER: No, your Honor.

13 MR. ROE: No, Judge.

14 MS. TEKEEI: Your Honor, I may have missed this. I'm
15 not sure if you discussed the appeal waiver for the stipulated
16 guidelines range for the consolidated, if the two cases were to
17 be consolidated?

18 THE COURT: I believe I did.

19 MS. TEKEEI: Okay. Thank you, your Honor.

20 THE COURT: You mean if the matters are consolidated,
21 that defendant would agree not to appeal any sentence within
22 the 108 to 129 month range?

23 MS. TEKEEI: That's correct your Honor.

24 MR. BECKER: You did, your Honor.

25 THE COURT: I thought so.

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1 MS. TEKEEI: Thank you.

2 MR. BECKER: And it's done again, I suppose.

3 THE COURT: Mr. Campbell, do you understand the basic
4 principle that if you are sentenced separately, you will agree
5 not to challenge any sentence outside of the separate
6 stipulated guidelines ranges that are contained in the plea
7 agreement, and if you are sentenced in the consolidated
8 proceeding you will agree not to appeal or otherwise challenge
9 any sentence outside the stipulated range for consolidated
10 sentencing?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: All right.

13 Apart from what is in this plea agreement, have any
14 promises of any kind been made to you to influence you to plead
15 guilty?

16 THE DEFENDANT: No, your Honor.

17 THE COURT: Have any promises been made to you
18 regarding the actual sentence you will receive on any of these
19 charges?

20 THE DEFENDANT: No, your Honor.

21 THE COURT: Do you understand that no one, including
22 either of your attorneys or the government or this Court can
23 give you any assurance as to what your sentence will be, as
24 your sentence will be determined solely by the sentencing judge
25 or judges, after any such judge has ruled on any challenge to

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1 the presentence report or reports, and has determined whether
2 there are grounds to adjust the guidelines range or to sentence
3 you outside that range?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: Have any threats been made against you,
6 either directly or indirectly, to influence how you plead
7 today?

8 THE DEFENDANT: No, your Honor.

9 THE COURT: Is your plea voluntary and made of your
10 own free will?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: All right. I'm going to take these again
13 one at a time.

14 Before I ask you about your conduct, I'm going to ask
15 the government to please summarize the elements of the charges
16 that it would have to establish at trial in order to sustain
17 the charges.

18 Let's start with the case before Judge Scheindlin. If
19 you could please state the elements of the aggravated identity
20 theft and the conspiracy to commit bank fraud?

21 MS. TEKEEI: Yes. Thank you, your Honor.

22 Count two of the superseding indictment charges the
23 defendant with aggravated identity theft in violation of 18
24 United States Code, Section 1028(a). In order to prove that
25 crime, the government must establish the following elements

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1 beyond a reasonable doubt: First, that the defendant knowingly
2 used or transferred or possessed a means of identification of
3 another person; second, that the defendant used the means of
4 identification during and in relation to one of certain other
5 enumerated felony offenses, which include bank fraud, in
6 violation of 18 U.S.C. 1344; and, third, that the defendant
7 acted without lawful authority.

8 And the government would also prove by a preponderance
9 of the evidence that the offense occurred, at least in part, in
10 the Southern District of New York.

11 Count three of the superseding indictment charges the
12 defendant with conspiracy to commit bank fraud in violation of
13 18 United States Code, Section 1349. In order to prove that
14 crime, the government must establish the following elements
15 beyond a reasonable doubt: First, the existence of a
16 conspiracy, that is, an agreement or understanding among two or
17 more people to accomplish a criminal or unlawful purpose;
18 second, the knowing association and participation of the
19 defendant in the conspiracy; third, that any one member of the
20 conspiracy committed at least one overt act in furtherance of
21 the conspiracy within the Southern District of New York.

22 And, again, as the purpose of this conspiracy was to
23 commit bank fraud in violation of 18 United States Code,
24 Section 1344, I'd like to set forth the elements of that crime
25 which are: First, that there was a scheme to defraud a bank or

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1 obtain money or funds owned or under the custody or control of
2 a bank by means of materially false or fraudulent pretenses,
3 representations, or promises; second, that the defendant
4 executed or attempted to execute the scheme with the intent to
5 defraud the bank; and, third, that at the time of the execution
6 of the scheme the bank had its deposits insured by the Federal
7 Deposit Insurance Corporation.

8 And as to the bank fraud conspiracy, the government
9 would also prove by a preponderance of the evidence that the
10 offense occurred, at least in part, in the Southern District of
11 New York.

12 THE COURT: All right, let's stop there for the
13 moment.

14 Mr. Campbell, did you just now hear government counsel
15 summarize the elements of aggravated identity theft and
16 conspiracy to commit bank fraud that it would have to prove at
17 trial to sustain those charges?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Do you understand that the government
20 would have to prove each of the elements of those charges
21 beyond a reasonable doubt in order to obtain a conviction
22 against you on those charges?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: All right. Do you still wish to proceed
25 with your plea as to those charges?

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1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: Can you please tell us in your own words
3 what you did that makes you guilty of those crimes?

4 THE DEFENDANT: Yes, your Honor.

5 With respect to count number two, the aggravated
6 identity theft, I did -- I used an ID that, that I know that
7 belonged to another person to open up a bank account to commit
8 bank fraud.

9 THE COURT: When you say an ID, you mean someone's --

10 THE DEFENDANT: A New Jersey driver's license, New
11 Jersey State driver's license.

12 THE COURT: Okay. So you knew it was not yours, it
13 was someone else's ID?

14 THE DEFENDANT: Yes.

15 THE COURT: And you used it particularly to open a
16 bank account. Did you have an intent then to access that
17 account?

18 THE DEFENDANT: Um, let me, let me all go back a
19 little bit.

20 THE COURT: Go ahead.

21 THE DEFENDANT: Yes, I did use an ID that I know that
22 the person was, actual person that really that existed, to open
23 up an account.

24 THE COURT: Somebody else's ID?

25 THE DEFENDANT: Yes.

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1 THE COURT: When you opened up an account, was it your
2 intention to use that account in order to obtain money that was
3 not yours?

4 THE DEFENDANT: Yes, your Honor to deposit checks in
5 an account that I knew was -- didn't belong to me.

6 THE COURT: Did you also intend to withdraw money from
7 the account?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: Did you have the authority from the person
10 with the New Jersey driver's license to do this?

11 THE DEFENDANT: No. I obtained the New Jersey
12 driver's license on my own without that person's authority.

13 THE COURT: The person didn't know you were opening up
14 a bank account?

15 THE DEFENDANT: No, your Honor.

16 THE COURT: How does this -- I assume this relates to
17 the bank fraud?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Can you explain that as well?

20 THE DEFENDANT: Yes. Um, I did conspire with others
21 to get business certificates to open up -- open up business
22 accounts to deposit checks that didn't belong to --

23 THE COURT: I'm sorry, checks -- say that again?

24 THE DEFENDANT: Checks in different businesses' names
25 that didn't belong to me in those accounts to obtain funds from

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1 those accounts once the checks cleared.

2 THE COURT: Does that relate to this individual
3 account you just described?

4 THE DEFENDANT: Yes.

5 THE COURT: Or totally separate?

6 THE DEFENDANT: That's -- yes, it relates to -- it's
7 the same as the conspiracy, the overt act of the conspiracy,
8 yes.

9 THE COURT: All right. I'm just a little bit
10 confused, because you described businesses and you also
11 described an individual with the driver's license?

12 THE DEFENDANT: Okay. The same, the same ID I used in
13 the same scheme to open up -- in that particular -- I opened up
14 a business account with a business account business certificate
15 with that person name, opened up the account and deposited the
16 check into a bank account that I knew that didn't belong to me.
17 The ID didn't belong to me, the check didn't belong to me, with
18 the purpose of obtaining funds from the bank.

19 THE COURT: Is this bank here in Manhattan?

20 THE DEFENDANT: No. But the check was deposited into
21 the bank in Manhattan.

22 THE COURT: Do you have a proffer of F.D.I.C. insured
23 bank?

24 MS. TEKEEI: Yes, your Honor. TD Bank is insured by
25 the Federal Deposit Insurance Corporation.

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1 THE COURT: This was a TD Bank?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: And when you say "conspired with others,"
4 did you agree with at least one other person to engage in
5 activity of setting up accounts that you were not authorized to
6 set up?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: Was it part of your agreement to try to
9 obtain funds from the bank to which you're not authorized?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: Did you know what you were doing when you
12 were doing it, that it was not lawful activity?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: Was it your intention at the time to
15 defraud the bank and get money to which you were not entitled?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Do either counsel believe any additional
18 facts need to be elicited for a satisfactory allocution to
19 either count two or three?

20 MS. TEKEEI: Your Honor, I believe Mr. Campbell said
21 he used the ID of another person. I just want to clarify that
22 on that ID there was the name, Social Security number and date
23 of birth which he also used on the bank account forms. It's
24 not just the fact of the ID, but its the use of those, that
25 personal identifying information that's the aggravated identity

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1 theft.

2 THE COURT: I thought that was implicit, but let me
3 confirm it.

4 I'm sorry, do you need a moment?

5 THE DEFENDANT: No, no, no. Just to correct what she
6 was saying. No, the driver's license doesn't have the Social
7 Security number, but I did use the Social Security number to
8 open up the business account in the bank. I did use that
9 person's Social Security number to open up the bank account.

10 THE COURT: You had that person's Social Security
11 number as well?

12 THE DEFENDANT: Yes.

13 THE COURT: And did you use information from the
14 driver's license as well, the name, date of birth or anything
15 else?

16 THE DEFENDANT: Yes, yes. I had the actual license,
17 yes.

18 THE COURT: Okay. So what information was on the
19 license that you used?

20 THE DEFENDANT: To open up the bank account?

21 THE COURT: Right.

22 THE DEFENDANT: The date -- the date of birth, name,
23 Social Security.

24 THE COURT: Name and separately Social Security
25 number? Separate Social Security number you had from another

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1 source?

2 THE DEFENDANT: To get, to get the -- to get the ID,
3 you have to have the name and the Social Security number to get
4 the actual ID from the Department of Motor Vehicles.

5 THE COURT: Oh, you came into possession of somebody's
6 name and Social Security number, and then contacted the
7 Department of Motor Vehicles and got a driver's license?

8 THE DEFENDANT: No. I had actual birth certificate
9 and Social Security card and went to the Motor Vehicles and got
10 the license.

11 THE COURT: All right. So you started with somebody
12 else -- somebody's identity, identifying information other than
13 the driver's license in the first instance, and then you added
14 on the driver's license and used that with the bank?

15 THE DEFENDANT: Yes.

16 THE COURT: You also used the Social Security number
17 with respect to the bank fraud?

18 THE DEFENDANT: Yes.

19 THE COURT: Counsel believe we have a satisfactory
20 allocution?

21 MS. TEKEEI: Thank you, your Honor. Yes.

22 THE COURT: Anything else from counsel on this matter?

23 MR. ROE: No, your Honor.

24 THE COURT: All right.

25 Let's turn to the case before Judge Patterson, S4 14

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1 Crim. 130. If I could hear from the government the element of
2 the Hobbs Act robbery that's charged in count one.

3 MS. TEKEEI: Yes. Thank you, your Honor.

4 Before I do that, I'd like to place on the record the
5 Government's proof at trial on the Judge Scheindlin case.

6 THE COURT: Go ahead.

7 MS. TEKEEI: Thank you. Had this case proceeded to
8 trial, the government would have proven beyond a reasonable
9 doubt that the defendant participated in a conspiracy from
10 approximately November of 2012 through approximately May of
11 2013 to commit bank fraud, and in connection with committing
12 bank fraud, he also used the personal identifying information
13 of a real person.

14 And the government would have proven that the
15 defendant, working with others, opened up fraudulent bank
16 accounts, deposited stolen checks into those bank accounts, and
17 withdrew the funds, successfully withdrawing more than
18 \$500,000.

19 The Government's proof would have included the
20 following: Surveillance photographs and audio recordings of
21 the defendant using the name and identification information of
22 a real person, opening a fraudulent bank account, depositing a
23 stolen check into that account, and attempting to withdraw
24 funds from the account; testimony from a cooperating witness
25 and other witnesses whom the defendant recruited to open up

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1 fraudulent bank accounts, deposit stolen checks into those
2 accounts and withdraw funds from those accounts to the tune of
3 more than \$500,000; audio recordings of the defendant and his
4 coconspirators calling a bank to inquire about the funds in the
5 fraudulent accounts that they had opened; telephone records,
6 including telephones used by the defendant showing the
7 defendant's communications with his coconspirators, and
8 communications with the bank in connection with the conspiracy;
9 testimony from the victim companies whose stolen checks the
10 defendant fraudulently cashed; testimony from representatives
11 of the banks that were victimized by the defendant and his
12 coconspirators; identification records and witness testimony
13 regarding the defendant's true identity; and testimony from the
14 victim whose identity the defendant stole and used in
15 connection with this bank fraud scheme.

16 Your Honor, as to the elements of --

17 THE COURT: Before you go on.

18 MS. TEKEEI: Yes.

19 THE COURT: You reminded me that I neglected to ask
20 Mr. Campbell for the timeframe of his conduct with respect to
21 the bank fraud and identity theft.

22 Can you confirm, at least approximately, what dates or
23 what timeframe you're talking about here?

24 THE DEFENDANT: Yes. From November -- from November
25 2012 till May 2013. That's for the conspiracy.

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1 THE COURT: Okay.

2 THE DEFENDANT: As far as the actual using the ID,
3 that was sometime in November 2012 as far as the identity
4 theft -- aggravated identity theft was November 2012.

5 THE COURT: Okay.

6 Counsel, if you could, set out for us the elements
7 that would have to be established at trial to prove the claim
8 of Hobbs Act robbery?

9 MS. TEKEEI: Yes. Thank you, your Honor.

10 Count one of the indictment before Judge Patterson, S4
11 13 Crim. 130, charges the defendant with conspiring to commit a
12 Hobbs Act robbery. The elements of that are: First, the
13 existence at or about the time alleged in the indictment of the
14 conspiracy to commit the robbery; second, that the defendant
15 knowingly and willfully associated himself with and joined in
16 the conspiracy; and, third, that interstate or foreign commerce
17 or an item moving in interstate or foreign commerce was or
18 would have been delayed, obstructed or affected in any way or
19 degree.

20 As the object of the conspiracy was Hobbs Act robbery,
21 that crime has the following four elements: First, that the
22 defendant obtained or took or attempted to obtain or take the
23 property of another; second, the defendant took or attempted to
24 take the property against the victim's will by actual or
25 threatened force, violence or fear of injury, whether immediate

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1 or in the future; third, such actions actually or potentially
2 in any way or degree obstructed, delayed or affected Interstate
3 commerce; fourth, the defendant acted unlawfully, willfully and
4 knowingly.

5 Thank you, your Honor. I'm sorry. The government
6 would also prove by a preponderance of the evidence that the
7 crimes have occurred, at least in part, in the Southern
8 District of New York.

9 THE COURT: Mr. Campbell, did you hear the
10 Government's counsel summarize the elements of the robbery
11 charge that you're facing in the case before Judge Patterson?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: Do you understand that to prevail on that
14 charge, the government would have to prove each element of the
15 crime beyond a reasonable doubt?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Do you still wish to proceed with your
18 plea as to that charge?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: Did you in fact commit that offense?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Can you please tell us what you did in
23 your own words that makes you guilty of this offense?

24 THE DEFENDANT: In 2013 I agreed with others about
25 stealing jewelry or watches from a jewelry store in

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1 Connecticut. Specifically, I agreed that if the other person
2 actually stole the jewelry or watches, that I would sell them
3 for him and share the proceeds. And I knew that, and I knew
4 that to get the jewelry -- to get to the jewelry store in
5 Connecticut I had to drive through some part of the Southern
6 District, specifically the Bronx.

7 THE COURT: Do you know whether it was the intent of
8 person who would commit this robbery to use force or to
9 threaten to use force?

10 THE DEFENDANT: They, they broke -- they broke the
11 glass window on the outside to take it.

12 THE COURT: When you agreed to participate in the
13 robbery -- let me make sure I understand.

14 Your agreement was to sell the proceeds. Was your
15 agreement to participate in the robbery itself? Was your
16 agreement to sell the property that was stolen?

17 THE DEFENDANT: My agreement was to -- my agreement is
18 that I identified the location -- I identified the location for
19 the individuals, and if they stole the watches or jewelry, I
20 agreed to sell it with -- for them and get proceeds from
21 selling it for them.

22 THE COURT: And when you talk about driving through
23 the Bronx, were you there going to the jewelry store, or did
24 you just know someone else would have to drive through the
25 Bronx to get there? Did you agree to go along and do

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1 something? Time out, go ahead.

2 (Conferring)

3 THE DEFENDANT: I was --

4 (Pause)

5 THE DEFENDANT: Yeah. Um, your Honor, can I proceed?

6 THE COURT: Yes, go ahead.

7 THE DEFENDANT: Yes. Um, I knew that the people that
8 was actually committing the robbery, I knew that they were
9 going to -- I was around, but not -- I was around the
10 Southern -- I knew that they was going to drive through the
11 Southern -- through the Bronx to get to where they were going.
12 I knew that. But I didn't actually participate in the actual
13 committing of the robbery.

14 THE COURT: And did you know that -- at the time you
15 agreed to what you agreed to -- so you agreed to give somebody
16 a location and to help sell the proceeds, the property that was
17 stolen -- did you understand when you were agreeing to do this
18 that, if necessary, force would be used or threatened in the
19 robbery?

20 THE DEFENDANT: Yes. More than likely, yes.

21 THE COURT: Is there a stipulation with respect to the
22 movement of articles and commodities in commerce and the
23 obstruction, delay and affecting of commerce?

24 MR. BECKER: Your Honor, we have no basis to contest
25 that allegation.

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1 THE COURT: Could I have a proffer from the government
2 on that?

3 MS. TEKEEI: Yes, your Honor. The items and the money
4 that was made off of the items that were stolen moved in
5 interstate commerce.

6 THE COURT: I gather from looking at the indictment,
7 there may be some other actions for this overall conspiracy
8 that took place in Southern District.

9 MS. TEKEEI: Yes, your Honor. The other members of
10 the conspiracy took overt acts in furtherance of the conspiracy
11 here in the Southern District of New York.

12 And I would also proffer, your Honor, that we believe
13 the evidence at trial would show that Mr. Campbell assisted in
14 selecting the jewelry store that was robbed, particularly the
15 one on November 6th, 2013, which is the one I believe he's
16 referring to in Connecticut; that he drove one of the cars that
17 took members of the robbery crew to the area, and that they
18 traveled through the Bronx in connection with that particular
19 robbery, and that he also received proceeds of that robbery.

20 And the testimony that would be presented for, or the
21 evidence that would be presented at trial would include
22 testimony of law enforcement witnesses, victims from the
23 jewelry store that was robbed, accomplice testimony, as well as
24 physical evidence including DNA results from testing on
25 shattered glass from the store window and videotape from the

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1 robbery.

2 MR. BECKER: None of what was just said is disputed.

3 THE COURT: You said DNA evidence. Are you talking
4 about this defendant?

5 MS. TEKEEI: No, your Honor. I mean, I should say not
6 that I'm aware of, your Honor, but at least -- I'm not going
7 to -- I'm not going to guess, your Honor. Not that I'm aware
8 of.

9 MR. BECKER: Your Honor, I reviewed the discovery that
10 was provided in this matter. There are DNA - there is at least
11 one DNA hit I'll call it. It is not of Mr. Campbell. And the
12 Prosecutor who is personally responsible for that case is
13 Richard Cooper I believe. It's my understanding from him, and
14 I think the government just essentially confirmed it tacitly,
15 the government does not allege that Mr. Campbell actually
16 participated in the theft in terms of breaking the glass or
17 anything. There is no question that he was part of the
18 conspiracy to do it, as he has told you.

19 THE COURT: Right. I just wanted to know if he had an
20 understanding at the time that he was agreeing to participate
21 in the way in which he agreed to participate, whether he had
22 any understanding that force or violence or the threat of force
23 or threat of violence would be used or was planned --

24 MR. BECKER: Your Honor, my sense --

25 THE COURT: -- in connection with the robbery.

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1 MR. BECKER: My sense is that it was certainly
2 reasonably foreseeable to him that that would happen. And I
3 think he told you a few moments ago that he thought it was even
4 more than likely.

5 But I've spoken to him about this. And, for example,
6 if one of the robbers walked into the jewelry store and there
7 was a Rolex watch sitting on the counter by some chance, he
8 likely would have taken it, and that would have been part of
9 the booty, and no force would have had to have been required.
10 But they went there that day with a hammer prepared to break a
11 plate glass window. So it's fair to say that it was certainly
12 reasonably foreseeable that that type of force would be used.

13 THE COURT: Did your client know they had a hammer or
14 they were going there with a hammer?

15 MR. BECKER: May I inquire?

16 THE COURT: I'm not sure whether it's needed, but it
17 is a conspiracy to commit Hobbs Act robbery.

18 MR. BECKER: Your Honor, not that -- I mean, I
19 don't -- I mean, if the Court is satisfied that his allocution
20 as put on the record is sufficient, as I --

21 THE COURT: I'm not -- I'm just raising this as a
22 question. I'm not sure whether -- I'm not sure the extent to
23 which Mr. Campbell needs to know that force or violence might
24 be used or intended. I'm not sure the extent to which that's
25 necessary.

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1 MR. BECKER: I've conferred with the government
2 regarding this, the adequacy of this allocution. My
3 understanding is that the government deems it sufficient.

4 THE COURT: Let me pose this particular question to
5 the government. To what extent, if at all, does this defendant
6 have to have an understanding as to whether there would be
7 force used or planned or anticipated or attempted for any given
8 robbery?

9 MS. TEKEEI: Your Honor, may I have one moment to
10 confer with defense counsel?

11 THE COURT: Yes.

12 MS. TEKEEI: Thank you.

13 (Conferring)

14 MR. BECKER: Your Honor, Ms. Tekeei and I just
15 reviewed the elements of the offense. And one of the elements
16 is that they -- and I'm not reading from what Ms. Tekeei just
17 showed me, but I'm paraphrasing I think accurately -- is that
18 one of the elements is that they deprived property -- they
19 deprived an owner of his property against his will by force, if
20 necessary. So -- and that's sufficient. So this agreement did
21 not contemplate that the robbers walk into the store and say to
22 the owner we'd like to have that Rolex watch, but we're not
23 going to pay you, just give it to us. And if the owner said
24 no, they would say okay, thanks, and walk out. They went there
25 prepared to use force, if necessary. And I don't think --

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1 THE COURT: I'm not questioning that. The question
2 that I'm asking is with respect to Mr. Campbell, who has said
3 that he was not there, he didn't go along, he wasn't the one
4 who was actually committing the robbery, whether for him -- and
5 I'm asking the question -- for him to be guilty of conspiring
6 to commit this type of robbery, whether he has to have an
7 understanding as to --

8 MR. BECKER: As to what I just said.

9 THE COURT: As to what you said.

10 MR. BECKER: Yes.

11 THE COURT: As opposed to the people who went there
12 have this understanding.

13 MR. BECKER: Yes. And I was about to --

14 THE COURT: Okay.

15 MR. BECKER: Agreed. And I was about to suggest to
16 the Court that Mr. Campbell, who can speak in his own words,
17 would assure the Court that that was so.

18 Let me confirm that, okay.

19 THE COURT: Okay.

20 (Conferring)

21 THE COURT: By the way, the exact language of the
22 statute, Section 1951(b)(1) which defines robbery, the term
23 "robbery" means the unlawful taking or obtaining of personal
24 property from the person or the presence of another against his
25 will by means of actual or threatened force or violence or fear

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1 of injury, immediate or future, to his person or property, or
2 property in his custody or possession or the person or property
3 of a relative or member of his family, or of anyone in his
4 company at the time of the taking or obtaining.

5 So I don't think it's only against his will, but it's
6 against his will by means of actual or threatened force or
7 violence or fear of injury.

8 MR. BECKER: Yes, your Honor. But I think that the
9 jury instructions and the case law, as the government has
10 pointed out to me by way of the elements, is that if somebody
11 walks into a store and says give me that, give me that watch,
12 and it's clear that they're there to steal it and the owner,
13 not wanting to get shot or maybe be harmed, says here, take it,
14 just don't hurt me, that that's a robbery. And so --

15 THE COURT: All right.

16 MS. TEKEEI: Your Honor, if I may just add? The
17 agreement has to cover the elements of Hobbs Act robbery. And
18 one of those elements is that they would have used or attempted
19 to use force, as your Honor stated, and that he knows they
20 would have done that even if he wasn't the one, his
21 coconspirators would have done that, even if he wasn't the one
22 actually taking out those -- committing the robbery physically
23 at that location. I think the facts are clear and the proffer
24 is clear that that was absolutely part of the agreement.

25 And then the question is whether the defendant just

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1 needs to clarify what he said, that it was more than likely --
2 I think he said it was more than likely that they would use
3 force -- that he understood that they would use or threaten to
4 use force in order to obtain these goods.

5 THE DEFENDANT: Yes. Hello, your Honor. I understood
6 that if they needed to use force, that they would -- they would
7 use force.

8 THE COURT: All right. Do either counsel believe any
9 additional facts need to be elicited for a satisfactory
10 allocution to count one of the 14 Crim. 130 case?

11 MS. TEKEEI: No, your Honor.

12 MR. BECKER: No, your Honor.

13 THE COURT: I got two simultaneous nos. Did the Court
14 Reporter get that?

15 THE COURT REPORTER: Yes.

16 THE COURT: All right. I may have already asked this,
17 but did you know that it was against the law to agree with
18 another person to aid in any way in the type of robbery that
19 you've been talking about?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Let me ask all counsel present if there
22 are any other questions of any kind that you believe I should
23 be asking Mr. Campbell today. Counsel?

24 MS. TEKEEI: Not for the government, your Honor.

25 MR. BECKER: No, your Honor.

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1 MS. TEKEEI: Thank you.

2 MR. ROE: No, your Honor.

3 THE COURT: All right. Let me ask all three of you,
4 do any of you know of any reason why I should not recommend
5 acceptance of this plea with respect to either case?

6 MS. TEKEEI: No, your Honor.

7 MR. BECKER: No, your Honor.

8 MR. ROE: No, your Honor.

9 THE COURT: All right, then I think we have managed to
10 get to the end of this rather lengthy plea proceeding.

11 Based on my colloquy with Mr. Campbell, I conclude
12 that he understands the nature of the charges to which he's
13 pleading with respect to both of the criminal cases against
14 him, and that he understands the consequences of his plea.

15 I'm also satisfied that his plea is voluntary with
16 respect to both of the cases, and that there is a factual basis
17 for the plea with respect to each of the three charges in
18 question.

19 I also note for the record that I see no issue here
20 with respect to Mr. Campbell's competence to enter a plea. He
21 seemed fully capable to participate in these proceedings today.
22 Accordingly, I hereby recommend that Judge Scheindlin accept
23 the proffered plea to counts two and three in the case numbered
24 S1 14 Crim. 254, and that Judge Patterson accept the proffered
25 plea to count one in the case numbered S4 14 Crim. 130.

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1 Has either judge set a sentencing date?

2 MS. TEKEEI: Judge Scheindlin has set a sentencing
3 date of April 2nd, 2015 at 4:30 p.m. We do not have a
4 sentencing date from Judge Patterson. And if the sentencings
5 are consolidated, I think -- I don't know what that date for
6 that would be, your Honor.

7 THE COURT: All right. Let's set a control date for
8 the sentencing before Judge Patterson. And since we have a
9 date from Judge Scheindlin, why don't we just set the control
10 date as the same date for the Judge Patterson case, April 2nd,
11 2015. That's longer than I would ordinarily go. When they're
12 in custody I usually go no more than 90 days, but I think this
13 is an unusual enough circumstance that it makes sense to have a
14 single control date.

15 I'm going to leave it to counsel to raise with respect
16 to judges the issue of potential consolidation. I'm not making
17 any kind of recommendation on that front. That would be
18 entirely up to the district judges.

19 I assume there is no issue here as to bail?

20 MR. BECKER: That's correct, your Honor.

21 THE COURT: Okay. On either two cases, I'm assuming.

22 I'm going to ask the government to prepare a
23 prosecution case summary for purposes of the presentence
24 report, both of the two cases, and to deliver that to the
25 Probation Department within two weeks, 14 days from today.

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1 I'm also going to ask defense counsel, each of you, to
2 please schedule with the Probation Department a presentence
3 interview of your client and to make yourself available for
4 that interview. It would also be appreciated if you can make
5 that happen within 14 days from now so the matter could be
6 moved along.

7 I assume the government will order a copy of the
8 transcript of this allocution and will submit it, together with
9 any necessary additional paperwork, to both Judges Scheindlin
10 and Patterson so they may act on my recommendations.

11 Needless to say, if the matter is consolidated, then
12 everything should go to that judge.

13 Is there anything else?

14 MS. TEKEEI: Not from the government, your Honor.

15 MR. BECKER: No, your Honor. But I want to thank
16 you --

17 MR. ROE: No.

18 MR. BECKER: -- for working through this complex and
19 difficult proceeding.

20 THE COURT: All right. Next time when there is a slot
21 in your schedule, try to make that happen early. If you can't,
22 try to reschedule, as opposed to simply saying we're here now,
23 which is I gather sort of what happened today.

24 Look, I'm happy to have had enough space in the
25 calendar to be able to do it today.

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1 Best of luck to you, Mr. Campbell.

2 MS. TEKEEI: Thank you.

3 THE DEFENDANT: Thank you, your Honor.

4 MS. TEKEEI: Thank you very much, your Honor.

5 (Adjourned to April 2, 2015 at 4:30 p.m.)

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